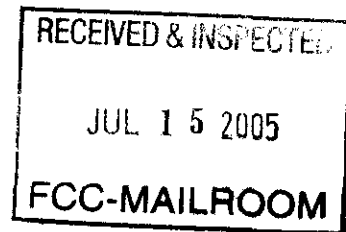


Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)

Reclassification of License of)
Station KYQQ(FM), Arkansas City, Kansas)

RM-11256



ORDER TO SHOW CAUSE

Adopted: July 13, 2005

Released: July 15, 2005

By the Assistant Chief, Audio Division, Media Bureau:

1. The Audio Division has before it a petition for rule making filed by Linda Crawford, d/b/a Waukomis Broadcasting ("Petitioner") seeking to amend the FM Table of Allotments by allotting Channel 292A to Waukomis, Oklahoma, as the community's first local aural transmission service. To accommodate the allotment, Petitioner also requests that Station KYQQ(FM) in Arkansas City, Kansas, be reclassified as a Class C0 facility because it is operating below minimum Class C facilities.¹ Petitioner has also certified, as required, that no other Class A channels are available for allotment to Waukomis.²

2. Station KYQQ(FM) currently operates on Channel 293C with an effective radiated power ("ERP") of 100 kilowatts ("kW") at 390 meters height above average terrain (HAAT), which is below the minimum Class C antenna height of greater than 450 meters HAAT with 100 kW ERP. The staff has tentatively concluded that if Station KYQQ(FM) operates as a Class C0 facility, any short-spacing between Station KYQQ(FM) and the proposed use of Channel 292A at the proposed site would be eliminated. For the reasons discussed below, we are issuing this *Order to Show Cause* directed to licensee of Station KYQQ(FM), Arkansas City, Kansas, to show cause why its facilities should not be reclassified.

3. Pursuant to the reclassification procedures set forth in the *Second Report and Order, supra*, and note 2 of Section 1.420 (g) of the Commission's Rules, a petitioner may initiate the reclassification of a Class C FM station to a Class C0 station through the filing of an original petition for amendment of the FM Table of Allotments. In those instances in which a triggering petition proposes an amendment or amendments to the FM Table of Allotments in addition to the proposed reclassification, the Commission will issue an *Order to Show Cause* as set forth in Note 4 to Section 73.3573 of the Rules, and a Notice of Proposed Rule Making will be issued only after the reclassification issue is resolved. In order to comply with the foregoing reclassification procedures, it is first necessary to issue this *Order to Show Cause* directed to Journal Broadcast Corporation ("Journal") to show cause why Station KYQQ(FM)'s license should not be modified to specify operation on Channel 293C0 in lieu of Channel 293C at Arkansas City. Section 316(a) of the Communications Act of 1934, as amended, permits us to modify a license or construction permit if such action is in the public interest. Section 316(a) requires that we notify the affected stations of the proposed action, the public interest reasons for the action, and afford at least 30

¹ See 1998 Biennial Regulatory Review—Streamlining of Radio Technical Rules in Parts 73 and 74 of the Commission's Rules, 15 FCC Rcd 21,649 (2000) ("*Second Report and Order*"); 47 C.F.R. §§ 73.3573, n. 4 and 1.420(g), n.2.

² See 47 C.F.R. §§ 73.3573, n. 4 and 1.420(g), n.2. See also *Second Report and Order*, 15 FCC Rcd at 21,662, ¶ 26.

days to respond. This procedure is now set forth in Section 1.87 of the Commission's Rules.³ In this instance, the reclassification of Station KYQQ(FM) as a Class C0 station at Arkansas City, Kansas, will accommodate the allotment of Channel 292A at Waukomis, Oklahoma, as proposed by Petitioner. We consider this reclassification proposed by Petitioner to have sufficient public interest benefits to justify the issuance of a show cause order.

4. The license of Station KYQQ(FM) at Arkansas City, Kansas, can be modified to allow the reclassification of Channel 293C to Channel 293C0 at its currently authorized transmitter site.⁴

5. Accordingly, IT IS ORDERED, That pursuant to Section 316(a) of the Communications Act of 1934, as amended, Journal Broadcasting Corporation, licensee of Station KYQQ(FM), Arkansas City, Kansas, SHALL SHOW CAUSE why its license should not be modified to specify operation as a Class C0 station on Channel 293C0, Arkansas City, Kansas.

6. Pursuant to Section 1.87 of the Commission's Rules, Journal may, no later than, August 29, 2005, file a written statement showing with particularity why its license should not be modified as proposed in this *Order to Show Cause*. The Commission may call upon the licensee to furnish additional information. If the licensee raises a substantial and material question of fact, a hearing may be required to resolve such questions of fact pursuant to Section 1.87 of the Rules. Upon review of the statements and/or additional information furnished, the Commission may grant the modification, deny the modification, or set the matter of modification for hearing. If no written statement is filed by the date referred to above, the licensee will be deemed to have consented to a modification as proposed in this *Order to Show Cause* and a final *Order* will be issued if the modification is found to be in the public interest. If Journal chooses to seek authority to modify Station KYQQ(FM)'s facilities, an acceptable application for a construction permit to increase the antenna height to greater than 450 meters HAAT and 100 kW ERP or the equivalent, it must express its intention to file the necessary application by the comment date specified in this *Order*. It also must file an acceptable application for a construction permit for Station KYQQ(FM) with the Commission within 180 days subsequent to the show cause comment due date (August 29, 2005). Upon the filing of an acceptable construction permit application, the proposal to allot Channel 292A at Waukomis, Oklahoma, will be dismissed. The present three-year construction period will be applicable if a construction permit is obtained by Journal for Channel 293C specified herein, under this procedure. If the construction is not completed as authorized, Station KYQQ(FM) is subject to automatic reclassification as a Class C0 station, and, in that event, a new petition for rule making to allot Channel 292A at Waukomis, Oklahoma, may be refiled.

7. IT IS THEREFORE ORDERED, That Journal Broadcasting Corporation show cause why its authorization for Station KYQQ(FM) should not be modified to specify operation on Channel 293C0 in lieu of Channel 293C at Arkansas City, Kansas.

8. IT IS FURTHER ORDERED, That the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, SHALL Send a copy of this *Order to Show Cause* by Certified Mail, Return Receipt Requested, to the following:

³ See *Modification of FM and Television Licenses Pursuant to Section 316 of the Communications Act*, 2 FCC Rcd 3327 (1987).

⁴ The reference coordinates for Channel 293C0 at Arkansas City are North Latitude and West Longitude.

Journal Broadcast Corporation
3355 S. Valley View Boulevard
Las Vegas, Nevada 89102
(Licensee of Station KYQQ(FM))

Marissa Repp, Esq.
Hogan & Hartson, LLP
555 13th Street, N.W.
Washington, D.C. 20004-1109
(Counsel for Station KYQQ(FM))

9. Any protest to this proposed reclassification may be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). Protests should be filed with the Federal Communications Commission, Office of the Secretary, 445 Twelfth Street, SW, TW-A325, Washington, D.C. 20554. Additionally, a copy of any filing should be served on:

Ms. Linda Crawford
Waukomis Broadcasting
3500 Maple Ave., #1320
Dallas, Texas 75219
(Petitioner)

10. The Commission's contractor, Natek, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Pennsylvania Avenue, N.E., Suite 110, Washington, D.C. 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail or Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW, Washington, D.C. 20554. **All filings must be addressed to the Office of the Secretary, Federal Communications Commission. Any filing that is not addressed to the Office of the Secretary will be treated as filed on the day it is received in the Office of the Secretary. See 47 C.F.R. § 1.7. Accordingly, failure to follow the specified requirements may result in the treatment of a filing as untimely.**

11. For further information on this proceeding, contact Sharon P. McDonald, Media Bureau (202) 418-2180.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Assistant Chief
Audio Division
Media Bureau